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8 **UNITED STATES DISTRICT COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA**

10 THERESA BROOKE, a married woman
11 dealing with her sole and separate claim,

12 Plaintiff,

13 vs.

14 CAHUENGA PASS HOTEL LLC, a
15 California limited liability company,

16 Defendant.

Case No:

VERIFIED COMPLAINT

(JURY TRIAL DEMANDED)

17 Plaintiff alleges:

18 **PARTIES**

19 1. Plaintiff Theresa Brooke is a married woman. Plaintiff is legally disabled,
20 and is therefore a member of a protected class under the ADA, 42 U.S.C. § 12102(2),
21 the regulations implementing the ADA set forth at 28 CFR §§ 36.101 et seq., the
22 California Unruh Civil Rights Act. Plaintiff ambulates with the aid of a wheelchair due
23 to the loss of a leg.

24 2. Defendant, Cahuenga Pass Hotel LLC, owns and/or operates and does
25 business as the hotel Tilt Hotel Universal/Hollywood, Ascend Hotel Collection, located
26 at 3241 Cahuenga Boulevard W, Los Angeles, California 90068. Defendant's hotel is a
27 public accommodation pursuant to 42 U.S.C. § 12181(7)(A), which offers public
28

1 lodging services. On information and belief, Defendant's hotel was built or renovated
2 after March 15, 2012.

3 **JURISDICTION**

4 3. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §§ 1331 and 42
5 U.S.C. § 12188.

6 4. Plaintiff's claims asserted herein arose in this judicial district and
7 Defendant does substantial business in this judicial district.

8 5. Venue in this judicial district is proper under 28 U.S.C. § 1391(b) and (c)
9 in that this is the judicial district in which a substantial part of the acts and omissions
10 giving rise to the claims occurred.

11 6. Pursuant to *Arroyo v. Rosas*, supplemental jurisdiction is appropriate over
12 Plaintiff's Unruh claim. On a case-specific analysis, there are no compelling reasons to
13 decline jurisdiction.

14 **ALLEGATIONS**

15 7. Plaintiff alleges that Defendant's hotel does not have a compliant access
16 aisle at the passenger loading zone adjacent to the hotel lobby in violation of Sections
17 209 and 503 of the 2010 Standards. An access aisle has specific requirements to be
18 compliant with the Standards: It must be (1) 60 inches wide and at least 20 feet long, (2)
19 it must have an accessible route adjoining it, and (3) it cannot be within a vehicular
20 way. Section 503.3.

21 8. The requirement for an access aisle at a passenger loading zone is
22 immensely important for a person in a wheelchair such as Plaintiff, as it provides safe
23 access to the entry of the hotel and deters others from placing encumbrances or
24 obstacles there such as a vehicle parking. An access aisle is akin to a cross-walk for
25 pedestrians. Absence of an access aisle where required creates dangerous conditions for
26 a person in a wheelchair such as Plaintiff.

27 9. Plaintiff formerly worked in the hospitality industry. She and her husband
28 are avid travelers to California for purposes of leisure travel and to "test" whether

1 various hotels comply with disability access laws. Testing is encouraged by the Ninth
2 Circuit.

3 10. Plaintiff traveled to Los Angeles in late July 2023 for testing ADA
4 compliance and leisure travel. She anticipates lodging at and has concrete plans to lodge
5 at Defendant's hotel in April 2024, but she will not honor her concrete plans if
6 Defendant has not provided notice of remediation by then.

7 11. During this trip, Plaintiff personally visited Defendant's hotel.
8 Defendant's hotel has a passenger loading zone because pickup and dropoff occurs
9 there and it is located directly outside of the lobby entrance. There are also design
10 features showing an intent for utilization as a passenger loading zone. For example,
11 there is a *porte cochere*, which by definition is a design feature for passenger loading
12 zones. According to the U.S. Access Board Technical Guidelines on Passenger Loading
13 Zones, passenger loading zones are so common at hotels that even it recognizes "many
14 hotel entrances" have the design features indicating an intent to utilize as PLZs.

15 12. While at Defendant's hotel, she discovered that Defendant's hotel has a
16 barrier to entry to the lobby, which is that the passenger loading zone does not have an
17 access aisle compliant with Section 503.3. It is an absolute requirement to have an
18 access aisle at a passenger loading zone pursuant to Sections 209 and 503. The
19 requirement of an access aisle at a passenger loading zone relates to Plaintiff's
20 disability of not having one leg and being forced to use a wheelchair because access
21 aisles are required so persons in a wheelchair can maneuver without threat of danger
22 from other vehicles and without other encumbrances obstructing their pathway. The
23 lobby, therefore, is inaccessible to Plaintiff by way of the passenger loading zone
24 because there is no access aisle.

25 13. Plaintiff gained actual and personal knowledge of a barrier while visiting
26 Defendant's hotel (no access aisle at passenger loading zone), and as a result, she was
27 deterred from entering the hotel both from the barrier and due to the lack of equality.
28 She anticipates returning to this hotel and has concrete plans to do so in January 2024

(see above), but she will only lodge at the hotel if Defendant puts the required access aisle into place and gives notice of such remediation before her definitive return. Visiting otherwise would be futile because the lack of the access aisle represents a barrier to entering the lobby.

14. It is readily achievable and inexpensive to modify the hotel to provide an access aisle, which involves painting and measuring tools.

15. Without injunctive relief, Plaintiff and others will continue to be unable to independently use Defendant's hotel in violation of her rights under the ADA.

FIRST CAUSE OF ACTION

16. Plaintiff incorporates all allegations heretofore set forth.

17. Defendant has discriminated against Plaintiff and others in that it has failed to make its public lodging services fully accessible to, and independently usable by, individuals who are disabled in violation of 42 U.S.C. § 12182(a) and § 12182(b)(2)(iv) and the 2010 Standards, as described above.

18. Defendant has discriminated against Plaintiff in that it has failed to remove architectural barriers to make its lodging services fully accessible to, and independently usable by individuals who are disabled in violation of 42 U.S.C. §12182(b)(A)(iv) and the 2010 Standards, as described above. Compliance with the 2010 Standards would neither fundamentally alter the nature of Defendant's lodging services nor result in an undue burden to Defendant.

19. In violation of the 2010 Standards, Defendant's hotel passenger loading zone does not have a disability access aisle compliant with Section 503.3 of the Standards.

20. Compliance with 42 U.S.C. § 12182(b)(2)(A)(iv) and the 2010 Standards, as described above, is readily achievable by the Defendant. *Id.* Readily achievable means that providing access is easily accomplishable without significant difficulty or expense.

1 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- 2 a. Declaratory Judgment that at the commencement of this action Defendant
3 was in violation of the specific requirements of Unruh; and
- 4 b. Permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR §
5 36.504(a) which directs Defendant to take all steps necessary to bring its
6 passenger loading zone into full compliance with the requirements set
7 forth in the ADA;
- 8 c. Payment of costs and attorney's fees;
- 9 d. Damages in the amount of \$4,000.00; and
- 10 e. Provision of whatever other relief the Court deems just, equitable and
11 appropriate.

DEMAND FOR JURY TRIAL

12 Plaintiff hereby demands a jury trial on issues triable by a jury.

13
14 RESPECTFULLY SUBMITTED this 1st day of August, 2023.

15 /s/ P. Kristofer Strojnik

16 P. Kristofer Strojnik (242728)

17 Attorneys for Plaintiff

VERIFICATION

18
19 I declare under penalty of perjury that the foregoing is true and correct.

20 DATED this 1st day of August, 2023.

21
22
23 

24 Theresa Marie Brooke